

Message Text

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INFO OCT-01 EUR-25 NEA-14 IO-14 ISO-00 EB-11 AGR-20 TAR-02

L-03 H-03 SP-03 AID-20 NSC-07 RSC-01 CIEP-02 SS-20

STR-08 OMB-01 CEA-02 PA-04 PRS-01 USIA-15 SWF-02 /179 R

DRAFTED BY TREASURY:PSUCHMAN:MAM

APPROVED BY EB/ITP:MGLITMAN

EB/OT/STA:JPCRAWFORD

AGRICULTURE:RBELL

STR:RLMATTHEISEN

EUR/RPE:AALBRECHT

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P R 172303Z JUL 74

FM SECSTATE WASHDC

TO USMISSION EC BRUSSELS PRIORITY

AMEMBASSY LONDON PRIORITY

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INFO AMEMBASSY JIDDA

USMISSION GENEVA

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JIDDA HOLD FOR SECRETARY WILLIAM E.SIMON;

GENEVA FOR AMBASSADOR MALMGREN

E.O. 11652: GDS

TAGS: ETRD, EC, US

SUBJECT: COUNTERVAILING DUTY INVESTIGATION OF EC DAIRY

PRODUCTS--STAY IN COURT PROCEEDINGS

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REF: (A) STATE 149044 (B) EC BRUSSELS 5057 (C) EC BRUSSELS
5182 (D) EC BRUSSELS 5181

1. ON JULY 16 U.S. DISTRICT COURT FOR DISTRICT OF COLOMBIA
ISSUED AN ORDER STAYING FOR 120 DAYS THE SUIT AGAINST THE
TREASURY DEPARTMENT, BROUGHT BY THE NATIONAL MILK PRODUCERS
FEDERATION, SEEKING TO COMPEL A TREASURY DETERMINATION AS TO
WHETHER EC PAYMENTS ON DAIRY PRODUCTS CONSTITUTE A "BOUNTY
OR GRANT" WITHIN THE MEANING OF THE COUNTERVAILING DUTY
LAW.

2. BECAUSE TREASURY ATTORNEYS DOUBTED TREASURY'S ABILITY TO
OBTAIN ABOVE ORDER IN A CONTESTED PROCEEDINGS, TREASURY
SOUGHT AND GOT PLAINTIFF'S AGREEMENT TO THE STAY. AGREE-
MENT IS CONTINGENT, HOWEVER, ON A STIPULATION ENTERED INTO
BETWEEN THE PLAINTIFF AND THE GOVERNMENT WHICH, WHILE
NOTING THAT THE EC HAS INDEFINITELY SUSPENDED PAYMENTS ON
THE EXPORT OF DAIRY PRODUCTS TO THE U.S., COMMITS TREASURY
TO ISSUE A COUNTERVAILING DUTY PROCEEDING NOTICE
IMMEDIATELY IF THE PAYMENTS ARE RESUMED DURING THE PERIOD
OF THIS STAY, AND TO MAKE A DETERMINATION WITHIN TWO WEEKS
THEREAFTER WHETHER SUCH PAYMENTS CONSTITUTE A "BOUNTY OR
GRANT".

3. COUNSELLOR JEAN PIERRE LENG OF EC COMMISSION DELEGATION
WAS INFORMED OF THE ABOVE ON JULY 16 BY TREASURY DEPUTY
ASSISTANT SECRETARY SUCHMAN. LENG HAS APPOINTMENT WITH
SUCHMAN AND TREASURY ASSISTANT SECRETARY MACDONALD ON JULY
18 TO DISCUSS MATTER IN GREATER DETAIL.

4. PRESS WAS BRIEFED ON THIS DEVELOPMENT ON JULY 16.
ALTHOUGH ORDER AND STIPULATION ARE PUBLIC DOCUMENTS,
BRIEFING WAS COUCHED IN GENERAL TERMS. THUS FAR WE ARE NOT
AWARE THAT DETAIL OF STIPULATION HAVE APPEARED IN PRESS.

5. ADDRESSEE POSTS SHOULD CALL COURT ACTION TO ATTENTION
OF EC COMMISSION AND HOST GOVERNMENTS, INCLUDING DETAILS
OF TREASURY COMMITMENT TO EXPEDITIOUS ACTION IF PAYMENTS
RENEWED. PUBLIC COMMENTS SHOULD TO EXTENT POSSIBLE AVOID
SPECIFICS OF STIPULATION, BUT YOU CAN DRAW ON FINAL PARA-
GRAPH OF TREASURY'S JULY 12 PRESS RELEASE (STATE 151358).
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6. ADDRESSEES SHOULD EMPHASIZE THAT U.S. HAS NOW PRODUCED
ON ITS COMMITMENT, AS SET FORTH IN REF (A), AND THAT WE
MUST NOW TAKE ADVANTAGE OF THE NEW DEVELOPMENT, AVOID ANY
ACTIONS WHICH WOULD PRECIPITATE A NEW CONFRONTATION OVER
DAIRY EXPORT PAYMENTS AND WORK TOWARDS MUTUALLY SATISFAC-
TORY SOLUTIONS TO THESE COMPLEX PROBLEMS. KISSINGER

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